



Livestock Facility Siting

Livestock Facility Siting Monthly Report – November 2006

Program Highlights and Accomplishments

- Town of Armenia (Juneau County) issued Central Sands Dairy a local permit for a new 3500 head dairy based on the new siting law. The application for local approval was filed in early May and granted by the end of August. DATCP and DNR staffs helped the town work through local as well as state permit issues.
- The department continues outreach efforts to track ordinances being modified prior to the November 1st deadline.

Review Board Activities

- Larson Acres, Inc. filed a request for review with the Board on August 30, 2006. Larson Acres is challenging the Town of Magnolia (Rock County) for not making a completeness determination on its application to expand its heifer facility. The Board met on October 20th to consider jurisdictional questions related to Larson Acres' request for review. The Board decided, on a 6-1 vote, that they could not yet hear the case at this stage because the Town of Magnolia has not yet made a final decision to grant or to deny the siting application. There are several factors that may influence how and when this case is finally resolved, and it is difficult at this stage to provide additional information on its resolution.
- Based on an opinion from the Department of Justice, the Board must conduct all its meetings in open session.

Information and Outreach

DATCP continues with its extensive information and outreach effort. The department is expanding its training and education efforts beyond the implementation of the law and rule at the local level. Technical training sessions on the siting standards were held in Madison and Eau Claire.

Local Government Education

- Provided information to the Town of Big Flats (Adams County) concerning use of licensing ordinance in an unzoned area
- Answered a list of questions from Burnet County about licensing ordinances
- Answered questions for private consultant about building permits and the relationship to the siting law
- Assisted a private consultant in ordinance development for town in Dodge County



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- Answered Jefferson County questions about the application review process and variances

Local Government Education

- Answered questions from Waupaca County concerning multiple zoning districts and the exclusion of livestock agriculture
- Provided assistance to Lincoln County to modify a zoning ordinance to incorporate state requirements
- Presented siting updates at WCCA Fall conference
- Provided assistance to Town of Wyoming (Iowa County)
- Provided assistance to Green County
- Provide assistance to attorney representing Town of Porter (Rock County)
- Provided assistance to Marathon County in preparation of licensing ordinance
- Reviewed key points with Shawano County in regard to its revision of CUP requirements in its livestock ordinance
- Explained requirements to Juneau County (not likely to adopt ordinance)
- Provided training to county conservationists on the relationship of the siting law to other local regulations such as manure storage ordinances.
- Discussed ordinance provisions with Clinton Town Board Member (Rock County)
- Provided guidance to 35 people (mostly Outagamie town board members) regarding the requirements of the siting law at a September meeting in the Town of Freedom
- Addressed concerns about ordinance revisions in Town of Richmond (Shawano County)
- Evaluated ordinance provisions considered as part of Green County zoning ordinance revision.
- Assisted Chippewa County in locating materials to assist in development of a siting ordinance.
- Assisted private consultants working with Town of Beaver Dam
- Provided assistance to Burnett County about licensing options
- Answered questions involving livestock regulation by town and village of New Glarus
- Provided material and assistance to Manitowoc County in regard to licensing as implementation option
- Provided model ordinances and assistance to Town of Hubbard (Dodge County)
- Answered questions from the East Central Regional Planning Commission regarding livestock and zoning in Fond du Lac County
- Answered questions for town of River Falls about incorporation of CUP requirements in zoning ordinance during six month moratorium period
- Provided information to Town of Carlton (Kewaunee County) about siting and zoning.
- Explained how siting law may be incorporated into Town of Farmington (Washington County) zoning law



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Producer, Lender and Consultant Education

- Registered about 150 engineers, private consultants and others for technical training on the siting standards scheduled for Madison and Eau Claire.
- Developed materials for presentation to the Wisconsin Association of Professional Agricultural Consultants on the siting law for their November 2006 conference.
- Provided assistance to two farmers in Trempealeau county
- Answered questions about regulation of hobby farms under the siting law.
- Presented to 75 staff at annual meeting for Badgerland Farm Credit Services

Neighbor Contacts

- Explained process for filing appeal to potential aggrieved party
- Received complaint from neighbor about facility recently issued permit.

Ordinance Modification and Development

The department will develop systematic approach to track ordinance modifications following the November 1st deadline. The list of local government actions in this report is only a partial list of the actions being considered statewide. There are likely other counties and towns that are examining their options under the siting law and rule.

Revised ordinance submitted to DATCP

- Jefferson County (zoning revisions)
- Town of Magnolia in Rock County (zoning revisions)
- Town of Harmony in Rock County (zoning revisions)
- Town of Turtle in Rock County (zoning revisions)
- Jackson County (licensing adopted)

Considering ordinance modifications or adoption

- See below

Issues and Implementation Challenges

Calumet County is looking at ways to create a buffer around a city for the purpose of excluding new and expanding livestock operations in areas where the city is likely to expand. As part of Smart Growth planning, there is a plan for the city to expand its borders and services (i.e. sewer service and public water, roads) that accompany such development. To accommodate this future use,



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cities have sometimes requested that the towns restrict any farm construction and expansion in the planning area which will likely be annexed or developed residentially.

The siting law does not allow the exclusion of livestock operations unless the decision is based on public health and safety, or, unless the land is zoned non-agricultural. The officials in the county are weighing their alternatives. It is difficult to pinpoint a health and safety justification to exclude livestock facilities from the planned urban expansion area. If the town rezones the area as rural residential or other non-agricultural zone, it may avoid the restrictions imposed by the siting law. However, the land in this zone will not be eligible for exclusive agricultural zoning (EAZ). If the EAZ status is lost, residents in the newly zoned area may 1) lose tax credits, and 2) be subject to assessments or city improvements (if a city builds a road or runs sewer past a property, the landowner pays assessments). In addition, conversion of the zone to a non-ag land use classification is likely to accelerate development pressure. Even though the town is sympathetic to the concerns related to good planning, and understands the need for intergovernmental cooperation, it does not want to sacrifice land dedicated agriculture.

Farmer contacts

There is noticeable increase in contacts with farmers who must comply with new ordinances affected by the siting law.

- A farm family is asking if they can expand under a previously issued permit without filing a new application for approval. Their question focuses attention on the role and interpretation of pre-existing permits.
- Another farm family is concerned about whether a village has extraterritorial powers to exclude livestock operations in town ag zone. The farmer was seeking assurance that the neighboring village was subject to the siting law's requirements if it attempted to exclude livestock operations outside its boundaries.
- A farmer who is facing difficulties meeting a county's new ordinance wants to know if the siting law preempts local stormwater requirements. The farmer is concerned about the prohibitive costs of engineering services to satisfy ordinance requirements. The siting law allows local governments to prohibit a proposed expansion based on an ordinance enacted under 59.693 for construction site erosion control storm water management.

November 1st deadline

Local governments are raising questions about the consequences of failing to amend their zoning ordinances to conform to the siting law by November 1, 2006. Staff are telling local governments that they cannot rely on the grace period to continue to issue a conditional use permit (CUP) for a proposed facility after the November 1st deadline. Until they revise their ordinances, local governments will have a gap in their ability to require CUPs for proposed livestock operations. Additionally, local governments that have existing CUP thresholds below 500 animal units will not be able to grandfather their lower thresholds after November 1st.



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Applications and Actions

DATCP has received two applications from producers; however, no local governments have submitted applications to the DATCP after making their decisions.

Siting Standards

The NRCS is developing a technical standard for feed storage leachate and runoff control through the Standards Oversight Council.

Research and Grant Activities

Conservation Innovation Grant

Wisconsin's Dairy and Livestock Air Emission/Odor Project. The department has signed 5 contracts with the 6 producers selected from Clark, Dunn, Kewaunee, Manitowoc, Monroe, and Waupaca Counties. The contracts will provide about \$360,000 in funds for installation of the following practices designed to reduce air emissions and odors from the livestock operations: anaerobic manure digesters, geo-textile manure storage covers, animal lot improvements, solids separation and aeration. Landowners will contribute about \$280,000 to these projects. The department also will establish odor sampling protocols to evaluate these projects.

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